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SIGNATURE PAGE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

***IN RE CAPACITORS ANTITRUST
LITIGATION***

Master File No. 17-md-02801-JD

THIS DOCUMENT RELATES TO:

**DEFENDANTS' ADMINISTRATIVE
MOTION TO RESET TRIAL DATE**

*Direct Purchaser Plaintiffs Action, 14-cv-
03264-JD.*

ADMINISTRATIVE MOTION TO RESET TRIAL DATE

Pursuant to Civil Local Rules 7-11 and 40-1, Defendants¹ hereby move the Court to reset the recently-set Direct Purchaser Plaintiff (“DPP”) trial date of March 2, 2020 to July 20 or 27, 2020 in accordance with the Court’s previous Order continuing the trial date to June or July 2020 (ECF No. 999) and the parties’ previous agreement to begin trial on July 20 or 27, 2020. Defendants sought a stipulation from DPPs to reset the trial date to July 20 or 27, 2020 – as the parties had previously agreed – but DPPs refused to stipulate, thereby necessitating the filing of this Administrative Motion. (Declaration of Eric P. Enson In Support of Defendants’ Administrative Motion To Reset Trial Date (“Enson Decl.”) at ¶ 10, Ex 1.)

On November 8, 2019, the Court vacated the previously-set trial date of February 3, 2020 and ordered the parties “to meet and confer and propose at least two alternative trial dates in June or July of 2020, with associated pretrial conference dates.” (ECF No. 999.) Since that time, the parties have met and conferred several times regarding schedules, conflicts and potential trial dates. (Enson Decl. at ¶ 3, Ex. 1.) Discussions of a potential trial date were complex and time consuming because individual schedules of counsel and timelines in other cases had to be altered in order to find a date in June or July 2020 that worked for all parties. (*Id.* at ¶ 4.)

From the outset of these discussions, DPPs insisted on a July 27, 2020 trial date because of conflicts with a June 2020 trial. (*Id.* at ¶ 5.) Defendants were ultimately able to resolve July conflicts in order to accommodate DPPs’ request and, on December 11, 2020, Defendants agreed with DPPs to propose to the Court a July 27, 2020 trial date. (*Id.*) This morning, DPPs and Defendants further agreed propose an alternative start date of July 20, 2020 as well in a Joint Statement Regarding Trial Date (“Joint Statement”). (*Id.*, Ex. 2.) While Defendants were waiting for DPPs’ permission to file the Joint Statement, the Court issued an Order setting trial to begin on March 2, 2020, with a corresponding pretrial conference date of February 13, 2020 and a

¹ This Administrative Motion is joined by: Holy Stone Enterprise Co., Ltd., Milestone Global Technology, Inc., Vishay Polytech Co., Ltd., Nippon Chemi-Con Corporation; United Chemi-Con, Inc., Matsuo Electric Co., Ltd., AVX Corporation, Taitso Corporation, Taitso America, Inc., Shinyei Kaisha, Shinyei Technology Co., Ltd., Shinyei Capacitor Co., Ltd., and Shinyei Corporation of America.

1 pretrial filings completion date of January 20, 2020. (*Id.* at ¶ 6, ECF No. 1037.)

2 Defendants respectfully request that the Court vacate the March 2, 2020 trial date and set
3 trial for July 20 or 27, 2020, consistent with the Court’s previous Order and the previous
4 agreement of the parties, for three reasons. First, while Defendants were prepared to begin trial in
5 February 2020, Defendants’ counsel altered their calendars and schedules in other matters in
6 order to be available for a July 2020 trial, which DPPs requested, and certain Defendants’ counsel
7 now have unavoidable conflicts with a March 2, 2020 trial date. (Enson Decl. at ¶ 7.)
8 Specifically, counsel for multiple Defendants now have trials in other matters set for February
9 through May 2020, some of which were scheduled based on a presumed June or July 2020 trial
10 date in this matter. (*Id.*) In addition, counsel for multiple Defendants committed themselves to
11 handling significant work in other matters, short of trial, between now and June or July 2020
12 based on the Court’s Order vacating the original trial date. (*Id.*) To be clear, these conflicts will
13 not allow certain Defendants’ counsel to fully participate in a trial in this matter as has been
14 envisioned for years.

15 Second, it is unclear – and Defendants have not had sufficient time to determine – whether
16 all percipient witnesses, some of whom will require visas to travel to the United States, and all
17 expert witnesses are available for a trial beginning on March 2, 2020. (*Id.* at ¶ 8.) In addition,
18 multiple percipient and expert witnesses changed plans and schedules in order to be able to
19 appear at trial in July 2020, as the parties previously agreed. (*Id.*)

20 Third, it will be extremely difficult for the parties to complete all pretrial work, let alone
21 all pretrial filings, based on a March 2 trial date. For example, with a March 2 start date, “[l]ead
22 trial counsel must meet and confer about the preparation of the joint pretrial materials” by this
23 Friday, December 20, but the parties are not in a position to have a meaningful meet and confer at
24 this time because they have not had any preliminary discussions about these topics. (*See*
25 Standing Order for Civil Jury Trials Before Judge James Donato at ¶ 1.) Likewise, motions *in*
26 *limine* must be served by the parties on January 6, 2020, just three weeks from now, which is a
27 tight timeframe for the parties to complete the motions and then meet and confer regarding
28 whether they can avoid filing those motions, particularly with the intervening holidays. And

1 while multiple other pretrial filings – such as exhibit lists, witness lists and proposed jury
2 instructions and a verdict form – are due on January 20, 2020 (ECF No. 1037), they must be
3 prepared, exchanged and negotiated by the parties far in advance of that date so that these
4 materials can be merged and synthesized in order to benefit the Court and the parties. Moreover,
5 many of these pretrial filings will require client input and approval, which will be difficult to
6 obtain in any meaningful measure given the intervening holidays. Finally, based on a presumed
7 June or July 2020 trial date, Defendants rescheduled critical, joint pretrial work for early 2020,
8 which simply cannot be completed with a March 2, 2020 trial date. (Enson Decl. at ¶ 9.)

9 Thus, Defendants respectfully request that the Court vacate the March 2, 2020 trial date
10 and reset trial for either July 20 or 27, 2020. Resetting trial for July is consistent with the parties'
11 previous agreement and current availability, will allow Defendants' counsel to honor the
12 commitments they made to other clients in other matters, will permit Defendants to utilize the
13 counsel they have selected to try this case, will make certain that all percipient and expert
14 witnesses are available to testify at trial, and will ensure that all pretrial filings and work are
15 complete with sufficient time to make them meaningful for the Court, the parties and the jury.

16 Dated: December 17, 2019

RESPECTFULLY SUBMITTED

17 JONES DAY

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CERTIFICATE OF SERVICE

I, Eric P. Enson, declare:

I am a citizen of the United States and employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 555 South Flower Street, Fiftieth Floor, Los Angeles, California 90071-2300. On December 17, 2019, I served a copy of: **DEFENDANTS' ADMINISTRATIVE MOTION TO RESET TRIAL DATE** by electronic transmission.

I am familiar with the United States District Court, Northern District Of California San Francisco Division's practice for collecting and processing electronic filings. Under that practice, documents are electronically filed with the court. The court's CM/ECF system will generate a Notice of Electronic Filing (NEF) to the filing party, the assigned judge, and any registered users in the case. The NEF will constitute service of the document. Registration as a CM/ECF user constitutes consent to electronic service through the court's transmission facilities.

Executed on December 17, 2019, at Los Angeles

/s/ Eric P. Enson

Eric P. Enson